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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,624	04/08/2004	William J. Hentges	026032-4708	8487
26371	7590	07/17/2007		
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			EXAMINER HAWK, NOAH CHANDLER	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/820,624

Applicant(s)

HENTGES ET AL.

Examiner

Noah C. Hawk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-7,9,10,12-20 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) 5,10,14,16,24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,9,12,13,15,17-20,22,23,25 and 27-29 is/are rejected.
- 7) ☒ Claim(s) 24,26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 24 and 26 are objected to because of the following informalities: they do not include the "withdrawn" status identifier. Appropriate correction is required. Please note: as these claims were not elected in the response to election dated 10/3/06, **they will not be treated on the merits in this office action and will still be considered withdrawn.**

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Benoit in US Patent 6007153. Benoit teaches a seating system for use in a vehicle, the seat having a seat bottom (2) and a seat back (4) with forward and rearward facing sides, the seat bottom and back positioned with respect to each other so that the seat back is configured for movement between an upright seating position and a horizontal stowed position and a positioning system (comprising at least 9 10, and 7) configured to move the seat back between the positions and configured for actuation by a user proximate a rear portion of the vehicle (the rear portion of the seat). Benoit teaches that

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the positioning system comprises a first actuator comprising a handle member (9) proximate an upper corner of the seat back configured for pivotal movement and a second actuator (7) comprising a handle device disposed proximate a lower corner of the seat back configured to actuate the first actuator. Benoit further teaches a rotary retraction device (spring 21 rotates the handle device) including a cord (10, the cord is connected to the handle device as well) to return the handle device to a stowed position.

4. Claims 12, 13, 15, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Benoit et al. in US Patent 6007153. Benoit teaches a positioning system comprising a release mechanism (5) actuable between a first position to permit movement of a seat back and a second position to prevent movement of a seat back, a first actuator (9) disposed on a seat back proximate to the upper corner, and a second actuator (7) disposed on a seat back proximate a lower corner and returned to a stowed position by a rotary spring mechanism (spring 21 rotates the second actuator) including a cord (cord 10 is also connected to the second actuator). Benoit teaches that the first actuator (9) is a pivotally actuated handle member and that the second actuator is a substantially flexible member (10) coupled to a gripping member (7) and an upper portion (best seen in Figure 2) of the seat back. Benoit also teaches that the first and second actuators are at least partially recessed within a rear surface of the seat back (because the flexible member is contained within the rear surface of the seat, the second actuator is considered at least partially recessed). Benoit further teaches that the first and second actuators are positioned on the seat back (4) adjacent a side of the

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vehicle (mounting the seat on the left side of the vehicle would place the actuators adjacent a side of the vehicle) and that the second actuator is returned to a stowed position by a spring mechanism (21). Please note that the limitation "so that the seat back ... behind the vehicle" in lines 9-12 of Claim 12 is considered functional language and do no impart significant structural limitations to the claim and is therefore given very little patentable weight.

5. Claims 22, 23, 25, and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Benoit et al. in US Patent 6007153. Benoit teaches a system for moving a seat back in a vehicle between storage and seating position, the system comprising a first actuator comprising a pivotally actuated handle member (9) disposed proximate an upper corner of the seat back and a second actuator comprising a flexible extension member (10) and a gripping member (7) disposed a lower corner of the seat back, wherein the first actuator is configured to be actuated by a user proximate the side of the vehicle (the user need only reach around the seat to grab handle 9) and the second actuator is configured to be actuated by a used proximate a rear of the vehicle (the user need only reach around the side of the seat to grasp handle 7). Benoit also teaches that the first and second actuators are at least partially recessed within a rear surface of the seat back (because the flexible member is contained within the rear surface of the seat, the second actuator is considered at least partially recessed) and are retractable to the recess by a rotary spring device (21) including a cord (10 the cord causes the first actuator to return to the stowed position). Benoit further teaches that the first and second actuators are positioned on the seat back (4) adjacent a side of the vehicle

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(mounting the seat on the left side of the vehicle would place the actuators adjacent a side of the vehicle). Benoit teaches that the first actuator is provided in a recess of a back panel of the seat back (best seen in Figure 2) and is extendable from the recess and retractable to the recess by a spring device (21). Please note that the limitation "so that the seat back ... the rear of the vehicle" in lines 6-8 of Claim 22 is considered functional language and do not impart significant structural limitations to the claim and is therefore given very little patentable weight.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benoit et al. as applied to Claim 1 above in view of Chang in US Patent 5433507. Benoit fails to teach a spring biasing the seatback into the seating position. Chang teaches a folding seat with a spring (34) cooperating with the seat back to bias it towards a seated position (see Column 3, lines 49-52). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Benoit et al. by adding a spring to bias the seat back toward an upright position as taught by Chang in order to reduce the effort needed by the user to raise the seat back.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benoit et al as applied to Claim 12 above in view of Kargilis et al. in US Patent 5570931. Benoit fails to teach two seat back sections. Kargilis teaches a foldable seat having two seat back sections (28). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Benoit by using two seat back sections as taught by Kargilis in order to allow the user to fold down on section at a time to accommodate the most cargo and passengers at once.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benoit et al. as applied to Claim 12 above in view of Chang in US Patent 5433507. Benoit fails to teach a spring biasing the seatback into the seating position. Chang teaches a folding seat with a spring (34) coacting with the seat back to bias it towards a seated position (see Column 3, lines 49-52). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Benoit et al. by adding a spring to bias the seat back toward an upright position as taught by Chang in order to reduce the effort needed by the user to raise the seat back.

Response to Arguments

10. Applicant's arguments filed 4/26/07 have been fully considered but they are not persuasive.

11. Regarding applicant's arguments with respect to the 112, second rejections of claims 20 and 29, upon consideration of the arguments, the rejections have been withdrawn.

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12. Regarding the applicant's arguments with respect to the inclusion of the rotary spring device including a cord for claims 1, 12 and 22: the spring return mechanism disclosed by Benoit causes a rotary motion and includes a cord connected thereto, cord.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NCH

NCH
7/9/07

A handwritten signature in black ink, appearing to read 'Dunn', with a long horizontal line extending to the right.

DAVID DUNN
SUPERVISORY PATENT EXAMINER